IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 774 of 1990

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BALCHAND MANEKCHAND - Appellant(s)
Versus
SWASHRAY TRANSPORT COMPANY & 3 - Defendant(s)

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Appearance :
MR MEHUL S SHAH for Appellant(s) : 1,
NOTICE SERVED for Defendant(s) : 1 - 2, 4,
MR RAJNI H MEHTA for Defendant(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 10/08/2007

ORAL JUDGMENT

1. Mr.Mehul S.Shah, learned counsel for the appellant. None for the respondent Nos.1, 2 and 4. Mr.Rajni H.Mehta, learned counsel for the respondent No.3 – Insurance Company.

2. The appellant, being aggrieved by the award

dtd.3/10/1988 passed by the Motor Accident Claim Tribunal, Valsad at Navsari in Motor Accident Claim Petition No.259 of 1984, is before this Court seeking enhancement in the compensation amount.

3. As no Cross Appeal or Cross Objection has been filed either by the owner or by the driver or by the Insurance Company, it is not necessary for this Court to detail the facts. The only question for consideration is that whether the tribunal was justified in awarding a sum of Rs.6000=00 only towards the loss of the dependency.

4. It has come on the records that the deceased was working as a Cleaner and was drawing Rs.600=00 per month as his salary, he was unmarried and was the only son of the appellant (mother of the deceased namely Smt.Kantiban Bavchandbhai), was transposed during the pendency of this appeal.

5. The learned tribunal, after holding that the deceased was earning Rs.600=00 per month, held that he would have spent 1/3rd for himself, but instead of recording a finding that he could contribute to the family a sum of Rs.400=00 per month, recorded a finding that he could contribute to the family a sum of Rs.300=00 per month, holding this, the tribunal held that after the marriage, the

deceased could only contribute Rs.100=00 per month to the the parents, therefore, the dependency would be Rs.1200=00 per year and in view of age of the parents, multiplier of 5 only was required to be applied.

6. In the opinion of this Court, in case of the parents, even if the son is married or unmarried, 2/3rd deductions are ordinarily to be made towards the personal expenses and maintenance of the wife of the person who provide some succor to the parents or the family. Under the circumstances, I would be justified in holding that the deceased could provide monetary assistance to the extent of Rs.200=00 per month, to the family, the dependency would be Rs.2400=00 per year. The tribunal did not appreciate that the mother was not 60 years, therefore, multiplier on the higher side was required to be applied, multiplier of 8 would be proper in the opinion of this Court.
7. I hold that the appellant would be entitled to a sum of Rs.19,200=00 under the head of loss of support from the deceased.
8. The tribunal, in the opinion of this Court, also erred in awarding a sum of Rs.5000=00 only, towards the loss of expectation of life. Ordinarily, a sum of Rs.10,000=00

ought to have been awarded, specially in case of old parents who lose everything in the life after the death of the son, under the said head, I enhance the amount by a sum of Rs.5000=00.

9. The award of Rs.1000=00 towards the cremation charges etc. is maintained.

10. In view of the discussion aforesaid, the appellant would be entitled to a sum of Rs.30,200=00, as the tribunal has awarded a sum of Rs.12,000=00 only, the compensation enhanced by Rs.18,200=00. The respondent Nos.1 to 3 are held jointly and severally liable to pay the above amount of Rs.18,200=00 with interest at the rate of 6% per annum from the date of claim petition till realisation.

11. The appeal is partly allowed. No costs.

(R.S. GARG, J.)

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